


CR 2007/30 - Income tax: AMP Limited - proposed return of capital to shareholders

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Class Ruling

Income tax: AMP Limited – proposed return of capital to shareholders

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ⓘ This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (unless we are satisfied that the ruling is incorrect and disadvantages you, in which case we may apply the law in a way that is more favourable for you – provided we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:

- subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936);
- section 45A of the ITAA 1936;
- section 45B of the ITAA 1936;
- section 45C of the ITAA 1936;
- section 104-25 of the *Income Tax Assessment Act 1997* (ITAA 1997);
- section 104-135 of the ITAA 1997; and
- section 855-10 of the ITAA 1997.

All legislative references in this Ruling are to the ITAA 1936 unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies is those entities who hold ordinary shares in AMP Limited (AMPL) and who are registered on the AMPL share register on the Record Date, being the date for determining entitlements to the proposed return of capital described in paragraphs 13 to 28 of this Ruling. In this Ruling, those entities are referred to as 'AMPL shareholders'.

Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 13 to 28 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

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Date of effect

8. This Ruling applies from 24 April 2007 to 30 June 2007. However, the Ruling continues to apply after this date to all entities within the specified class who entered into the specified scheme during the term of the Ruling, subject to there being no change in the scheme or in the entities involved in the scheme.

9. The Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling. Furthermore, the Ruling only applies to the extent that:

- it is not later withdrawn by notice in the *Gazette*; or
- the relevant provisions are not amended.

10. If this Class Ruling is inconsistent with a later public or private ruling, the relevant class of entities may rely on either ruling which applies to them (item 1 of subsection 357-75(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA)).

11. If this Class Ruling is inconsistent with an earlier private ruling, the private ruling is taken not to have been made if, when the Class Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

12. If the above two conditions do not apply, the relevant class of entities may rely on either ruling which applies to them (item 3 of subsection 357-75(1) of Schedule 1 to the TAA).

Scheme

13. The following description of the scheme is based on information provided by the applicant. The following documents, or relevant parts of them, form part of and are to be read with the description. The relevant documents or parts of documents incorporated into this description of the scheme are:

- class ruling request from Mallesons Stephen Jaques (MSJ) dated 6 September 2006; and
- correspondence providing further particulars dated from 27 October 2006 to 5 April 2007 from MSJ.

Note: certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under the Freedom of Information legislation.

14. AMPL is an Australian resident public company listed on the Australian Stock Exchange and is the ultimate parent of the AMP group. The company became the ultimate parent of the AMP group as part of the demutualisation of the Australian Mutual Provident Society (AMP Society) in 1998. The AMP Society upon demutualisation became AMP Life Limited (AMP Life), a subsidiary member of the AMP group. At the time of demutualisation, Division 9AA of Part III applied to base AMPL shareholders' cost of shares in AMPL for capital gains tax (CGT) purposes on the embedded value of the AMP Society.

15. In December 2003, the AMP group demerged its UK operations.

16. On 15 February 2007, AMPL announced that it intended to return capital of \$750 million (proposed 2007 Capital Return) to AMPL shareholders, which equates to 40 cents per ordinary share. The proposed 2007 Capital Return, like the 2005 Capital Return and 2006 Capital Return, is part of the AMP group's capital management strategy following the demerger of its UK operations.

17. Following the demerger of its UK operations, the AMP group's operating and regulatory capital requirements have fallen as it transforms from a traditional life insurance business to a modern wealth management business. The growth in the relatively less capital intensive Australian contemporary and asset management businesses, and the wind down in the relatively more capital intensive traditional business, means that the AMP group requires less capital to operate and support its policies and products.

18. The proposed 2007 Capital Return is referable to:

- excess share capital in AMP Life to the extent of \$241 million; and
- the balance of the Capital Reserve of AMPL of \$509 million which will be transferred to the share capital account of AMPL.

The above components of the proposed 2007 Capital Return contribute to AMPL's consolidated regulatory capital position at 31 December 2006.

Excess capital in AMP Life

19. The excess share capital in AMP Life of \$241 million, like the 2005 Capital Return of \$750 million and \$340 million component of the 2006 Capital Return, is referable to the remaining balance of the pre-demutualisation shareholders' capital (in terms of section 61 of the *Life Insurance Act 1995*) that was in the statutory funds of AMP Life, and which was integral to the business structure of the AMP group at demutualisation. The pre-demutualisation shareholders' capital formed part of the embedded value of the AMP Society before demutualisation, and is reflected in the cost base given to AMPL shares issued as part of the demutualisation as a result of the operation of Division 9AA of Part III.

20. The excess shareholder's capital in the statutory funds from which the proposed 2007 Capital Return will be sourced has been transferred to AMP Life's share capital account. This share capital will be returned to AMPL via a series of intra-group capital returns.

21. AMPL has advised that AMP Life's share capital account remains untainted following the transfer.

Capital Reserve of AMPL

22. The Capital Reserve is an account that was created at or in connection with the demutualisation of the AMP Society and reflects to the extent of \$509 million the balance of a limited Asset Revaluation Reserve created by AMPL as part of the demutualisation. The limited Asset Revaluation Reserve, reflecting part of the net value of the AMP Society, was integral to the creation of the share capital account of AMPL in connection with the demutualisation.

23. The balance of the Capital Reserve will be transferred to the share capital account of AMPL as part of the proposed 2007 Capital Return and returned to AMPL shareholders.

Other aspects of the proposed capital return

24. AMPL has determined that the funds to be returned to AMPL shareholders are surplus to its capital requirements. The proposed 2007 Capital Return will be internally funded.

25. The proposed 2007 Capital Return is subject to AMPL shareholders' approval at an Annual General Meeting to be held on 17 May 2007. The proposed 2007 Capital Return will be applied equally to each holder of fully paid ordinary shares on the register on 25 May 2007 (the Record Date), by way of cash distribution in proportion to the number of shares held on that date. Payment of the proposed 2007 Capital Return is to be made on 18 June 2007 (the Payment Date).

26. AMPL will debit the entire proposed 2007 Capital Return against the share capital of AMPL. There will be no change in either the number of ordinary shares held by each AMPL shareholder or the proportionate interest of each AMPL shareholder in AMPL as a result of the proposed 2007 Capital Return.

27. There will have been no transfers to AMPL's share capital account, as defined in section 975-300 of the ITAA 1997, prior to the proposed 2007 Capital Return, which would cause the share capital account to become tainted in terms of section 197-50 of ITAA 1997.

28. The proposed 2007 Capital Return will be made in addition to the payment of interim and final dividends anticipated by AMPL in respect of the year ended 31 December 2007. The proposed 2007 Capital Return will not affect the current dividend policy of AMPL under which it intends to continue to pay out approximately 85% of 'underlying contribution' (reported profits modified by a sustainability factor). AMPL has indicated that future capital initiatives are likely to be less frequent and/or significantly smaller in scale.

Ruling

Distribution is not a dividend for income tax purposes

29. As the proposed 2007 Capital Return will be debited to AMPL's untainted share capital account it will not be a dividend, as defined in subsection 6(1).

Sections 45A, 45B and 45C

30. The Commissioner will not make a determination under subsections 45A(2) or 45B(3) that section 45C applies to the proposed 2007 Capital Return. Accordingly, no part of the proposed 2007 Capital Return will be taken to be a dividend for income tax purposes.

Capital gains tax

31. CGT event G1 in section 104-135 of the ITAA 1997 will happen when AMPL pays the proposed 2007 Capital Return of 40 cents per share to an AMPL shareholder in respect of an AMPL share that they own at the Record Date.

32. Under subsections 104-135(3) and (4) of the ITAA 1997, the cost base and reduced cost base of each AMPL share will be reduced (but not below nil) by the amount of the proposed 2007 Capital Return of 40 cents per share. An AMPL shareholder will make a capital gain from CGT event G1 happening to each share to the extent (if any) that the payment exceeds the share's cost base in accordance with subsection 104-135(3).

33. CGT event C2 (section 104-25 of the ITAA 1997) will happen when AMPL makes the proposed 2007 Capital Return to an AMPL shareholder in respect of an AMPL share they owned at the Record Date but which was disposed of before the Payment Date.

34. If CGT event C2 happens in respect of an AMPL shareholder's right to the payment, the AMPL shareholder will make a capital gain to the extent the payment exceeds the cost base of the right. An AMPL shareholder will make a capital loss to the extent the payment is less than the reduced cost base of the right (subsection 104-25(3) of the ITAA 1997).

Foreign resident shareholders

35. A foreign resident AMPL shareholder who will receive a payment under the proposed 2007 Capital Return and makes a capital gain from CGT event G1 happening to their AMPL shares can disregard that capital gain if the shares in AMPL are not 'taxable Australian property' (section 855-10 of the ITAA 1997).

36. A foreign resident AMPL shareholder who has a right to the payment of the proposed 2007 Capital Return and makes a capital gain or loss from CGT event C2 happening to that right can disregard that capital gain or loss if the right is not 'taxable Australian property' (section 855-10 of the ITAA 1997).

Commissioner of Taxation24 April 2007

Appendix 1 – Explanation

① *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

37. Subsection 44(1) includes in a shareholder's assessable income a dividend, as defined by subsection 6(1), which is paid to the shareholder out of company profits.

38. The term 'dividend' in subsection 6(1) includes any distribution made by a company to any of its shareholders. However, paragraph (d) in the definition of 'dividend' excludes a distribution from the meaning of 'dividend' if the amount of a distribution is debited against an amount standing to the credit of the company's 'share capital account'.

39. 'Share capital account' is defined in section 975-300 of the ITAA 1997 as an account which the company keeps of its share capital, or any other account created on or after 1 July 1998 where the first amount credited to the account was an amount of share capital.

40. Subsection 975-300(3) of the ITAA 1997 states that an account is not a share capital account if it is tainted. Section 197-50 of the ITAA 1997 states that a share capital account is tainted if an amount, to which Division 197 of the ITAA 1997 applies, is transferred to the account and the account is not already tainted.

41. Under the proposed 2007 Capital Return, there will be a transfer of an amount, being the balance of the Capital Reserve of \$509 million, to the share capital account of AMPL. However, section 197-40 of the ITAA 1997 provides that the transfer does not attract the application of Division 197 of the ITAA 1997. Therefore, the share capital account of AMPL will not become tainted as a result of the proposed transfer of the balance of the Capital Reserve to the share capital account.

42. As the proposed 2007 Capital Return will be debited against an amount standing to the credit of AMPL's untainted share capital account, the proposed 2007 Capital Return will not constitute a dividend because of the exclusion in paragraph (d) in the definition of 'dividend' in subsection 6(1).

Anti-avoidance provisions

43. Sections 45A and 45B are two anti-avoidance provisions which, if they apply, allow the Commissioner to determine that all or part of a distribution is treated as an unfrankable dividend that is paid by the company out of profits to the shareholder.

Section 45A – streaming of dividends and capital benefits

44. Section 45A applies in circumstances where capital benefits are streamed to certain shareholders who derive a greater benefit from the receipt of capital (the advantaged shareholders) and it is reasonable to assume that the other shareholders (the disadvantaged shareholders) have received or will receive dividends.

45. Although AMPL will be providing its shareholders with a 'capital benefit' (as defined in paragraph 45A(3)(b)), the capital benefit is to be provided to all of the shareholders in AMPL. The circumstances of the scheme do not indicate that there is a 'streaming' of capital benefits to advantaged shareholders and of dividends to disadvantaged shareholders. Accordingly, section 45A will not apply to the proposed 2007 Capital Return and the Commissioner will not make a determination under subsection 45A(2) that section 45C applies to the proposed 2007 Capital Return.

Section 45B – schemes to provide capital benefits in substitution for dividends

46. Section 45B applies where certain payments are made to shareholders in substitution for dividends. Subsection 45B(2) sets out the conditions under which the Commissioner will make a determination under subsection 45B(3) that section 45C applies. These conditions are that:

- there is a scheme under which a person is provided with a capital benefit by a company (paragraph 45B(2)(a));
- under the scheme, a taxpayer (the relevant taxpayer) who may or may not be the person provided with the capital benefit, obtains a tax benefit (paragraph 45B(2)(b)); and
- having regard to the relevant circumstances of the scheme, it would be concluded that the person, or one of the persons, who entered into or carried out the scheme or any part of the scheme did so for a purpose (whether or not the dominant purpose but not including an incidental purpose) of enabling the relevant taxpayer to obtain a tax benefit (paragraph 45B(2)(c)).

Each of the conditions is considered below.

47. The proposed 2007 Capital Return will be a 'scheme' for the purposes of section 45B.

48. The phrase 'provided with a capital benefit' is defined in subsection 45B(5). Relevantly, it includes a distribution to a person of share capital. As AMPL proposes to debit the proposed 2007 Capital Return against its untainted share capital account, its shareholders will be provided with a capital benefit.

49. A shareholder 'obtains a tax benefit', as defined in subsection 45B(9), if:

- the amount of tax payable; or
- any other amount payable under the ITAA 1936 or the ITAA 1997,

would, apart from the operation of section 45B,

- be less than the amount that would have been payable; or
- be payable at a later time than it would have been payable,

if the capital benefit had instead been a dividend.

50. Ordinarily, a return of capital would be subject to the CGT provisions of the income tax law. Unless the amount of the distribution exceeds the cost base of the shares, there will only be a cost base reduction under CGT event G1 (section 104-135 of the ITAA 1997). It is only to the extent (if any) that the distribution exceeds the cost base of the shares that a capital gain arises. A capital gain may not arise at all for foreign resident shareholders: see paragraphs 73 and 74 of this Ruling. By contrast a dividend would generally be included in the assessable income of a resident shareholder or in the case of a non-resident, be subject to dividend withholding tax. Therefore, AMPL shareholders will generally obtain tax benefits from the proposed 2007 Capital Return.

Relevant circumstances

51. For the purposes of paragraph 45B(2)(c), the Commissioner is required to consider the circumstances set out under subsection 45B(8) to determine whether any part of the scheme would be entered into for a purpose, other than an incidental purpose, of enabling a relevant taxpayer to obtain a tax benefit.

52. The test of purpose is an objective one. The question is whether, objectively, it would be concluded that a person who entered into or carried out the scheme or any part of the scheme did so for the purpose of obtaining a tax benefit for the relevant taxpayer in respect of the capital benefit. The purpose does not have to be the most influential or prevailing purpose, but it must be more than an incidental purpose.

53. The relevant circumstances under subsection 45B(8) cover the circumstances of the company and the tax profile of the shareholders. In this instance, as the proposed 2007 Capital Return is made to all AMPL shareholders regardless of individual circumstances, paragraphs 45B(8)(c) to (h) do not incline for or against a conclusion as to purpose. The circumstances covered by paragraphs 45B(8)(i) and (j) pertaining to the provision of ownership interests and demerger are not relevant here. So, in this case, the relevant matters are those covered by the circumstances described in paragraphs 45B(8)(a), (b) and (k).

54. Paragraph 45B(8)(a) refers to the extent to which the capital benefit is attributable to capital and profits (realised and unrealised) of the company or an associate (within the meaning of section 318) of the company. In this case, the sources of the proposed 2007 Capital Return are:

- excess share capital in AMP Life to the extent of \$241 million; and
- the balance of the Capital Reserve of AMPL of \$509 million which will be transferred to AMPL's share capital account.

55. The capital amounts comprising the proposed 2007 Capital Return have been determined by AMPL to be excess to the AMP group's operating and regulatory requirements. Following the demerger of the AMP group's UK businesses, the operating and regulatory requirement for this capital has fallen as the AMP group transforms from a traditional life insurance business to a modern wealth management business. The growth in the relatively less capital intensive Australian contemporary and asset management businesses, and the wind down in the relatively more capital intensive traditional business, means that the AMP group requires less capital to operate and support its policies and products. AMPL has indicated that future capital initiatives are likely to be less frequent and/or significantly smaller in size. In these circumstances, the proposed 2007 Capital Return is attributable to capital and not to profits, realised or unrealised.

56. Paragraph 45B(8)(b) refers to the pattern of distributions made by a company or an associate (within the meaning of section 318) of the company. Since demutualisation, AMPL has maintained a policy of paying out most of the profits earned by the AMP group. The proposed 2007 Capital Return will be made in addition to the payment of interim and final dividends anticipated by AMPL in respect of the year ended 31 December 2007. The proposed 2007 Capital Return will not affect the current dividend policy of AMPL under which it intends to continue to pay out approximately 85% of 'underlying contribution' (reported profits modified by a sustainability factor) to ordinary shareholders. The capital returns AMPL undertook in 2005 and 2006 arose out of similar circumstances to the proposed 2007 Capital Return (apart from that portion of the 2006 Capital Return referable to its now disposed minority interest in the demerged UK entity). Accordingly, the company's pattern of distributions does not suggest that the proposed 2007 Capital Return will be made in substitution for a dividend.

57. Paragraph 45B(8)(k) refers to the matters in subparagraphs 177D(b)(i) to (viii). These are matters by reference to which a scheme is able to be examined from a practical perspective in order to identify and compare its tax and non-tax objectives. The matters include the manner in which the scheme is carried out, its form and substance, and its financial and other implications for the parties involved. In this case, the practical implications of the scheme for AMPL and its shareholders are consistent with its being, in form and substance, a distribution of share capital.

58. Therefore, having regard to the relevant circumstances of the scheme to return capital to the AMPL shareholders, as discussed in paragraphs 53 to 57 of this Ruling, it would not be concluded that the parties who enter into or carry out the scheme do so for a more than incidental purpose of enabling the shareholders to obtain a tax benefit. Accordingly, the Commissioner will not make a determination under subsection 45B(3) that section 45C applies to the proposed 2007 Capital Return.

Section 45C – deeming dividends to be paid where determinations under section 45A or 45B are made

59. As the Commissioner will not make a determination under subsection 45A(2) or subsection 45B(3) in relation to the scheme as described, section 45C will not deem any part of the proposed 2007 Capital Return to be an unfranked dividend for the purposes of the ITAA 1936 or of the ITAA 1997.

CGT event G1 – section 104-135

60. CGT event G1 in section 104-135 of the ITAA 1997 will happen when AMPL pays the proposed 2007 Capital Return amount in respect of a share that an AMPL shareholder owned at the Record Date and continues to own at the Payment Date, and some or all of the payment is not a dividend as defined in subsection 995-1(1) of the ITAA 1997.

61. AMPL proposes to make a payment to its shareholders out of its untainted share capital account. This payment will not be a dividend as defined in subsection 995-1(1) of the ITAA 1997. If the proposed 2007 Capital Return amount (40 cents per share) is not more than the cost base of the AMPL share at the time of the payment, the cost base and reduced cost base of the share are reduced by the amount of the capital return (subsection 104-135(4) of the ITAA 1997).

62. An AMPL shareholder will make a capital gain if the proposed 2007 Capital Return amount is more than the cost base of their AMPL share. The amount of the capital gain is equal to this excess (subsection 104-135(3) of the ITAA 1997).

63. If an AMPL shareholder makes a capital gain, the cost base and reduced cost base of the share are reduced to nil (subsection 104-135(3) of the ITAA 1997).

64. An AMPL shareholder cannot make a capital loss under CGT event G1.

65. If the AMPL share to which the payment relates was originally acquired by an AMPL shareholder at least 12 months before the payment of the proposed 2007 Capital Return amount, a capital gain from CGT event G1 may qualify as a discount capital gain under subsection 115-25(1) of the ITAA 1997 (provided the other conditions in Subdivision 115-A of the ITAA 1997 are satisfied).

CGT event C2 – section 104-25

66. If, after the Record Date but before the Payment Date, an AMPL shareholder ceases to own some, or all, of their shares in AMPL in respect of which the proposed 2007 Capital Return is payable, the right to receive the payment in respect of each of the shares disposed of is considered to be a separate CGT asset. That right is one of the rights inherent in the share at the Record Date and is retained by the shareholder when the share is sold.

67. An AMPL shareholder's right to receive the payment will be discharged or satisfied when the payment is made under the scheme, causing CGT event C2 to happen.

68. In working out the capital gain or capital loss made from CGT event C2 happening, the capital proceeds from the event will be the proposed 2007 Capital Return amount.

69. The cost base of the AMPL shareholder's right to receive a payment under the scheme is worked out in accordance with Division 110 of the ITAA 1997. However, the cost base of the right will be nil if the full cost base (or reduced cost base) of the share previously held by the AMPL shareholder has been applied in working out a capital gain or loss when a CGT event happened to the share – for example, when the AMPL shareholder disposed of the share. In these cases, the AMPL shareholder will generally make a capital gain equal to the amount paid under the scheme.

70. Because the right to the payment of the proposed 2007 Capital Return was inherent in the share during the time it was owned, the right is considered to have been acquired at the time when the share was acquired (section 109-5 of the ITAA 1997).

71. Consequently, if the share to which the payment relates was originally acquired by an AMPL shareholder at least 12 months before the payment of the proposed 2007 Capital Return amount, a capital gain from CGT event C2 happening to the right may qualify as a discount capital gain under subsection 115-25(1) of the ITAA 1997 (provided the other conditions in Subdivision 115-A of the ITAA 1997 are satisfied).

Foreign resident shareholders

72. A foreign resident can disregard a capital gain or loss from a CGT event that happens in relation to a CGT asset that is not 'taxable Australian property' (section 855-10 of the ITAA 1997). The term 'taxable Australian property' as described in the table in section 855-15 of the ITAA 1997 covers five categories of CGT assets. Broadly, these CGT asset categories are:

1. taxable Australian real property which is held directly;
2. indirect Australian real property interests which are not covered by item 5 of the table;
3. CGT assets used in carrying on a business through an Australian permanent establishment which are not covered by item 1, 2 or 5 of the table;
4. options or rights to acquire a CGT asset covered by item 1, 2 or 3 of the table; and
5. CGT assets where a capital gain or loss is deferred when an individual ceases to be an Australian resident.

73. A foreign resident AMPL shareholder who will receive a payment under the proposed 2007 Capital Return and makes a capital gain from CGT event G1 happening to their AMPL shares can disregard the capital gain if the shares in AMPL are not 'taxable Australian property' (section 855-10 of the ITAA 1997).

74. A foreign resident AMPL shareholder who has a right to the payment of the proposed 2007 Capital Return and makes a capital gain or loss from CGT event C2 happening to that right can disregard that capital gain or loss if the right is not 'taxable Australian property' (section 855-10 of the ITAA 1997).

Appendix 2 – Detailed contents list

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References

Previous draft:

Not previously issued as a draft

Subject references:

- capital benefit
- capital reductions
- dividend substitutions
- share capital

Legislative references:

- ITAA 1936 45C
- ITAA 1936 Pt III Div 9AA
- ITAA 1936 177D(b)(i)
- ITAA 1936 177D(b)(ii)
- ITAA 1936 177D(b)(iii)
- ITAA 1936 177D(b)(iv)
- ITAA 1936 177D(b)(v)
- ITAA 1936 177D(b)(vi)
- ITAA 1936 177D(b)(vii)
- ITAA 1936 177D(b)(viii)
- ITAA 1936 318
- ITAA 1997 104-25
- ITAA 1997 104-25(3)
- ITAA 1997 104-135
- ITAA 1997 104-135(3)
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- ITAA 1997 109-5
- ITAA 1997 Div 110
- ITAA 1997 Subdiv 115-A
- ITAA 1997 115-25(1)
- ITAA 1997 Div 197
- ITAA 1997 197-40
- ITAA 1997 197-50
- ITAA 1997 855-10
- ITAA 1997 855-15
- ITAA 1997 975-300
- ITAA 1997 975-300(3)
- ITAA 1997 995-1(1)
- TAA 1953
- TAA 1953 Sch 1 357-75(1)
- Copyright Act 1968
- Life Insurance Act 1995 61
- ITAA 1936 6(1)
- ITAA 1936 44(1)
- ITAA 1936 45A
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- ITAA 1936 45B(8)(j)
- ITAA 1936 45B(8)(k)
- ITAA 1936 45B(9)

ATO references

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 Income Tax ~~ Capital Gains Tax ~~ CGT events G1 to G3 - shares
 Income Tax ~~ Return of capital